

By Mr. Scibelli of Springfield, petition of Anthony M. Scibelli, Thomas M. Petrolati and another for legislation to authorize the audio-visual appearance at certain court proceedings of persons confined to a correctional facility. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT TO PROVIDE FOR AUDIO-VISUAL APPEARANCE BY PERSONS
CONFINED TO A CORRECTIONAL FACILITY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 Chapter 278 of the Massachusetts General Laws, as appearing
- 2 in the 1992 Official Edition, is hereby amended by inserting after
- 3 Section 35 the following new section:—
- 4 Section 36. Whenever the presence of a person in court is
- 5 required for pre-trial and post-trial proceedings, which person is
- 6 confined to a correctional facility, such presence may be made by
- 7 means of electronic audio-visual device from the place of confine-
- 8 ment to the place of such proceedings, or, where applicable, from
- 9 court to court. Such person may appear by means of such device
- 10 in the following proceedings:— arraignment, bail hearing, bail
- 11 review, pre-trial conference, motion to revise and revoke sentence,
- 12 motion for new trial, show cause hearings, small claims hearings,
- 13 domestic relations matters in the Probate Courts, administrative
- 14 hearings, and proceedings under Chapter 209A. Such device must
- 15 be operated so that the participants in such proceedings are able to
- 16 see and hear the images and voices of the judge, attorneys, parties,
- 17 and others taking part in such proceedings. Such person and his or
- 18 her counsel shall be provided with the opportunity for private con-
- 19 versation, by the use of such a device, prior to and at any time
- 20 during such proceedings. Appearances concerned with the fore-
- 21 going matters, as well as other appearances by means of such
- 22 device to which such person may agree, shall not take place unless

23 such person has explicitly waived any right which such person
24 might have to be physically present at such proceedings.

25 Notwithstanding any provision in the foregoing paragraph to
26 the contrary, the court, in the reasonable exercise of discretion,
27 may order that such appearance take place by means of such
28 device, if the court determines that it is in the best interests of the
29 administration of justice to do so.